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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,058	05/29/2001	William Joseph Beyda	98P7511US01	6313
7590	02/19/2009		EXAMINER	
Siemens Corporation Intellectual Property Department 186 Wood Avenue South Iselin, NJ 08830			PHAN, JOSEPH T	
			ART UNIT	PAPER NUMBER
			2614	
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			02/19/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/867,058	BEYDA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOSEPH T. PHAN	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 02 December 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20,27 and 28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20,27 and 28 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/02/2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 09/09/2008 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., serially sending a plurality of notification messages to a plurality of locations) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. It is noted that the claims merely recite, '*enable one or more notification messages to be generated and serially sent to a plurality of locations...wherein said one or more notification messages are sent to one of the plurality of locations*'

The examiner interprets this limitation merely as 'enabling one notification message and serially sent (one at a time) to one of the plurality of locations' and hence is able to read on the prior art of record due to its broad scope. The term 'serially sent' is interpreted as sent 'one at a time' and

not sending multiple notification messages to multiple locations as argued. Further amendment is necessary to read away from the prior art of record as noted below.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-12, 17-20 and 27-28 rejected under 35 U.S.C. 102(b) as being anticipated by Mohler, Patent #5,506,872.**

Regarding claim 1, Mohler teaches a multimedia messaging system(9 Fig.1), comprising: a mailbox configured to receive and store one or more messages, a capacity calculator configured to determine the amount of space occupied by said one or more messages (Fig.1 and col.4 lines 1-19); and a message transmittal unit configured to automatically enable one or more notification messages to be generated and serially sent to a plurality of locations(208 Fig.2, col.4 lines 25-43, and col.6 lines 28-31) in response to determining that the amount of space occupied by said one or messages exceeds a predetermined threshold(Fig.1 and col.4 lines 25-43); wherein said one or more notification messages are sent to a subsequent one of the plurality of locations if said one or more notification messages have not been received at a previous one of the plurality of locations and wherein said one or more notification messages are sent across multiple user-specified media(col.4 lines 40-43 and col.6 lines 28-31).

Regarding claim 2, Mohler teaches the system of claim 1, wherein said capacity calculator is configured to count the number of said one or more messages stored in said mailbox(col.5 lines 48-50; no messages is 0 count and more than 1 count is a few).

Regarding claim 3, Mohler teaches the system of claim 1, wherein said capacity calculator is configured to determine the amount of time said one or more messages occupy(col.4 lines 1-17 and lines 57-67; amount of time of a 100% fill rate is left).

Regarding claim 4, Mohler teaches the system of claim 1, wherein said mailbox is located in a non-volatile memory device(Fig.1).

Regarding claim 5, Mohler teaches the system of claim 4, wherein said capacity calculator is configured to determine the amount of non-volatile memory consumed by said one or more messages(col.4 lines 1-18).

Regarding claim 6, Mohler teaches the system of claim 1, wherein said capacity calculator is configured to count the number of minutes said one or more messages occupy(col.4 lines 1-18).

Regarding claim 7, Mohler teaches the system of claim 1, wherein said non-volatile memory device includes a fixed disk drive(Fig.1).

Regarding claim 8, Mohler teaches the system of claim 1, wherein said non-volatile memory device includes flash memory(Fig.1)

Regarding claim 9, Mohler teaches the system of claim 1, wherein said notification messages include one or more facsimile messages(col.4 lines 36-43).

Regarding claim 10, Mohler teaches the system of claim 1, wherein said notification messages include one or more telephone messages(col.4 lines 36-43).

Regarding claim 11, Mohler teaches the system of claim 1, wherein said notification messages include one or more pager notifications(col.4 lines 36-43).

Regarding claim 12, Mohler teaches the system of claim 1, wherein said notification messages include one or more electronic mail messages(col.4 lines 36-43).

Regarding claim 17, Mohler teaches the system of claim 1, further including a user alert profile table to store information as to where said one or more notification messages are to be sent(Fig.1 and col.4 lines 40-48 and col.5 lines 19-30).

Regarding claim 18, Mohler teaches the system of claim 1, wherein said multimedia messaging system is an electronic mail system(col.4 lines 36-43).

Regarding claim 19, Mohler teaches the system of claim 1, wherein said multimedia messaging system is a facsimile server(col.4 lines 36-43).

Regarding claim 20, Mohler teaches the system of claim 1, wherein said multimedia messaging system is a voice mail system(col.4 lines 36-43).

**Regarding claim 27, Mohler** teaches a multimedia messaging system, a method for generating notification messages, comprising:  
receiving and storing one or more messages, determining the amount of space occupied by said one or more messages(Fig.1 and col.4 lines 1-43), and  
automatically enabling one or more notification messages to be generated and serially sent to a plurality of locations in response to determining that the amount of space occupied by said one or more messages exceeds a predetermined threshold(Fig.1 and col.4 lines 1-43); wherein said one or more notification messages is sent to a subsequent one of the plurality of locations if said one or more notification messages has not been received at a previous one of the plurality of locations

and wherein said one or more notification messages are across multiple user-specified media(col.4 lines 40-43 and col.6 lines 28-31).

Regarding claim 28, Mohler teaches the method of claim 27, further including the step of storing one or more addresses where said one or more notification message are to be sent(Fig.1 and col.4 lines 1-43).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Mohler, Patent #5,506,872.

**Regarding claim 13,** Mohler teaches a multimedia messaging system, comprising: a mailbox configured to receive and store one or more messages(Fig.1 and col.4 lines 1-19); a capacity calculator configured to determine the amount of space occupied by said one or more messages (208 Fig.2 and col.4 lines 25-43); and

a message transmittal unit configured to automatically enable one or more notification messages to be generated in response to said capacity calculator determining that the amount of space occupied by said one or more messages exceeds a predetermined threshold(208 Fig.2 and col.4 lines 25-43);

wherein said one or more notification messages is sent to a subsequent one of the plurality of locations if said one or more notification messages has not been received at a

previous one of the plurality of locations and wherein said one or more notification messages are across multiple user-specified media(col.4 lines 40-43 and col.6 lines 28-31).

Mohler does not expressly state that his notification messages include changing the cadence of a message waiting light on a telephone.

However, examiner takes official notice as changing the cadence of the message waiting light is an old and well-known method to notify the system administrator(Mohler 232 Fig.2) as changing the blinking light speed would enable the administrator to visually know something has changed within his messaging system without physically touching the system.

**Regarding claim 14,** Mohler teaches a multimedia messaging system, comprising:

a mailbox configured to receive and store one or more messages(Fig.1 and col.4 lines 1-19); a capacity calculator configured to determine the amount of space occupied by said one or more messages(Fig.1 and col.4 lines 1-19); and

a message transmittal unit configured to automatically enable one or more notification messages to be generated in response to said capacity calculator determining that the amount of space occupied by said one or more messages exceeds a predetermined threshold(Fig.2 and col.4 lines 25-43);

wherein said one or more notification messages are sent to a subsequent one of the plurality of locations if said one or more notification messages have not been received at a previous one of the plurality of locations and wherein said one or more notification messages are across multiple user-specified media(col.4 lines 40-43 and col.6 lines 28-31).

Mohler does not expressly state that his notification messages include modifying a telephone dial tone.

However, examiner takes official notice as modifying a telephone dial tone is an old and well-known method to notify the system administrator(Mohler 232 Fig.2) as it would enable the administrator to audibly hear something has changed within his messaging system without physically touching the system(e.g. distinctive ring patents).

Regarding claim 15, Mohler teaches the system of claim 14, wherein said modified telephone dial tone includes changing the frequency of the dial tone(col.4 lines 20-43; frequency is changed in distinctive ring).

Regarding claim 16, Mohler teaches the system of claim 14, wherein said notification messages includes stuttering the telephone dial tone(col.4 lines 20-43; dial tones stutter).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH T. PHAN whose telephone number is (571)272-7544. The examiner can normally be reached on Mon-Fri 9am-6:30pm EST, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph T Phan/  
Examiner, Art Unit 2614